



DES MOINES WATER WORKS
Board of Water Works Trustees

Agenda Item No. III-F
Meeting Date: March 26, 2019
Chairperson's Signature Yes No

AGENDA ITEM FORM

SUBJECT: MidAmerican Energy Company Easement for Ruan Connector

SUMMARY:

- MidAmerican Energy Company must relocate existing underground electric and gas facilities to accommodate construction of the Ruan Connector.
- Water Works staff and legal counsel have worked with MidAmerican Energy Company to develop an agreement for the permanent easement needed on Water Works property to accommodate the relocations.
- Agreement has been reached on all terms and conditions of the easement.
- Staff recommends that the Board authorize the Chairperson and CEO and General Manager to execute the document granting an underground electric and gas easement to MidAmerican Energy Company for relocations which will accommodate the Ruan Connector.

FISCAL IMPACT:

No fiscal impact associated with this item.

RECOMMENDED ACTION:

Authorize the Chairperson and CEO and General Manager to execute the document granting an underground electric and gas easement to MidAmerican Energy Company for relocations which will accommodate the Ruan Connector.

BOARD REQUIRED ACTION:

- Public Hearing – Opened by Chairperson for comments from the public regarding the granting of an easement to MidAmerican Energy Company across Water Works' real estate. Chairperson closes hearing.
- Authorize the Chairperson and CEO and General Manager to execute the document granting an underground electric and gas easement to MidAmerican Energy Company for relocations which will accommodate the Ruan Connector.

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|---|---|--|
|  Jessica Barnett (date) <u>3/18/19</u> Supervisor of Property Management |  Ted Corrigan, P.E. (date) <u>3/18/19</u> Chief Operating Officer |  William G. Stowe (date) <u>3/29/19</u> CEO and General Manager |
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Attachments: Easement and Exhibit A: Site Map

Prepared by and return to: Jay Peterson 515-281-2713
MIDAMERICAN ENERGY ATTN: RIGHT-OF-WAY SERVICES PO BOX 657 DES MOINES, IA 50306-0657

**MIDAMERICAN ENERGY COMPANY
UNDERGROUND ELECTRIC AND GAS EASEMENT**

| | | | |
|---------------|-------------------|-----------|--|
| Folder No. | <u>6945-19</u> | State of | <u>Iowa</u> |
| Work Req. No. | <u>DR2612550X</u> | County of | <u>Polk</u> |
| Project No. | <u>DSM</u> | Section | <u>8 & 17</u> |
| | | Township | <u>78</u> North |
| | | Range | <u>24</u> West of the 5 th P.M. |

1. For and in consideration of the sum of One and no/100-----Dollar (\$1.00), and other valuable consideration, in hand paid by MIDAMERICAN ENERGY COMPANY, an Iowa corporation, receipt of which is hereby acknowledged, the undersigned owner(s) **Board of Water Works Trustees of the City of Des Moines, Iowa**, its successors and assigns, a municipal utility organized and existing under Chapter 388, Code of Iowa (“Grantor”), does hereby grant to MIDAMERICAN ENERGY COMPANY, its successors and assigns (“Grantee”), a perpetual, non-exclusive easement to construct, attach, reconstruct, operate, maintain, replace or remove underground lines, conduits, wires and cables for the transmission and distribution of electric energy and for communication and electrical controls, and for the transportation of natural gas, including but not limited to, meters, valves, support brackets, piping, line markers and other reasonably necessary equipment incident thereto (collectively “Facilities”) under, through, and across certain property described below, together with the right of ingress and egress to and from the same, and all the rights and privileges incident and necessary to the enjoyment of this easement (“Easement Area”).

DESCRIPTION OF PROPERTY CONTAINING EASEMENT AREA:

Part of the South Half of the Southwest Quarter (S1/2SW1/4) Section 8, Township 78 North, Range 24 West AND Part of the Northwest Quarter (NW1/4) Section 17, Township 78 North, Range 24 West, all in Polk County, Iowa.

EASEMENT AREA:

An underground electric and gas easement described as follows:

See Exhibit “A”, attached hereto and made a part hereof.

2. Additionally, Grantee shall have the right to remove from the Easement Area described above, any obstructions, including but not limited to, trees, plants, undergrowth, buildings, fences, and structures that interfere with the proper operation and maintenance of said Facilities and equipment, upon reasonable prior notice to Grantor.

3. Grantor agrees that it will not construct or place any permanent or temporary buildings, structures, fences, trees, plants, or other objects on the Easement Area described above, or make any changes in ground elevation without written permission from Grantee indicating that said construction or ground elevation changes will not result in inadequate or excessive ground cover, or otherwise interfere with the Grantee's rights to operate and maintain its Facilities, which permission is not to be unreasonably withheld.

4. In consideration of such grant, Grantee agrees that it will repair or pay for any damage which may be caused to crops, fences, or other property, real or personal of the Grantor by the construction, reconstruction, maintenance, operation, replacement or removal of the Facilities (except for damage to property placed subsequent to the granting of this easement) that Grantee determines interferes with the operation and maintenance of the Facilities and associated equipment. The cutting, recutting, trimming and removal of trees, branches, saplings, brush or other vegetation on or adjacent to the Easement Area is expected and not considered damage to the Grantor.

5. Additionally, when Grantor provides or installs duct/conduit for said Facilities, this grant shall cover and include all Facilities installed as part of the Easement Area.

6. Grantor certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Grantor hereby agrees to defend, indemnify and hold harmless Grantee from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

7. Each of the provisions of this easement shall be enforceable independently of any other provision of this easement and independent of any other claim or cause of action. In the event of any matter or dispute arising out of or related to this easement, it is agreed between the parties that the law of the jurisdiction and location where this easement is recorded (including statute of limitation provisions) will govern the interpretation, validity and effect of this easement without regard to the place of execution or place of performance thereof, or any conflicts or law provisions. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS EASEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

8. Grantor warrants to Grantee that Grantor has good and lawful authority to grant the rights provided in this easement on its behalf and of behalf of the City of Des Moines, Iowa.

(Acknowledgments on following page)

Dated this ____ day of _____, 2019

Board of Water Works Trustees

By: _____

Name Printed: Diane Munns

Title: Board Chair

By: _____

Name Printed: William G. Stowe

Title: Chief Executive Officer and General Manager

ACKNOWLEDGMENT

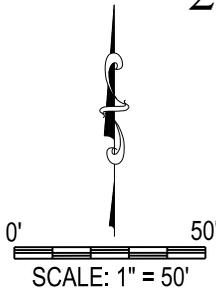
STATE OF IOWA)
)
COUNTY OF POLK) SS:

On this ____ day of _____, 2019, before me, a Notary Public in and for the State of Iowa, personally appeared Diane Munns and William G. Stowe, to me personally known, and, who being by me duly sworn, did say that they are the Board Chairperson and the Chief Executive Officer and General Manager of the BOARD OF WATER WORKS TRUSTEES OF THE CITY OF DES MOINES, IOWA, that no seal has been procured by the entity; that the instrument was signed on behalf of the entity by authority of its Board as contained in the resolution adopted by the Board on the ____ day of _____, 2019, and that Diane Munns and William G. Stowe acknowledged the execution of the instrument to be the voluntary act and deed of the BOARD OF WATER WORKS TRUSTEES OF THE CITY OF DES MOINES, IOWA, by it and by them voluntarily executed.

Notary Public in and for the State of Iowa

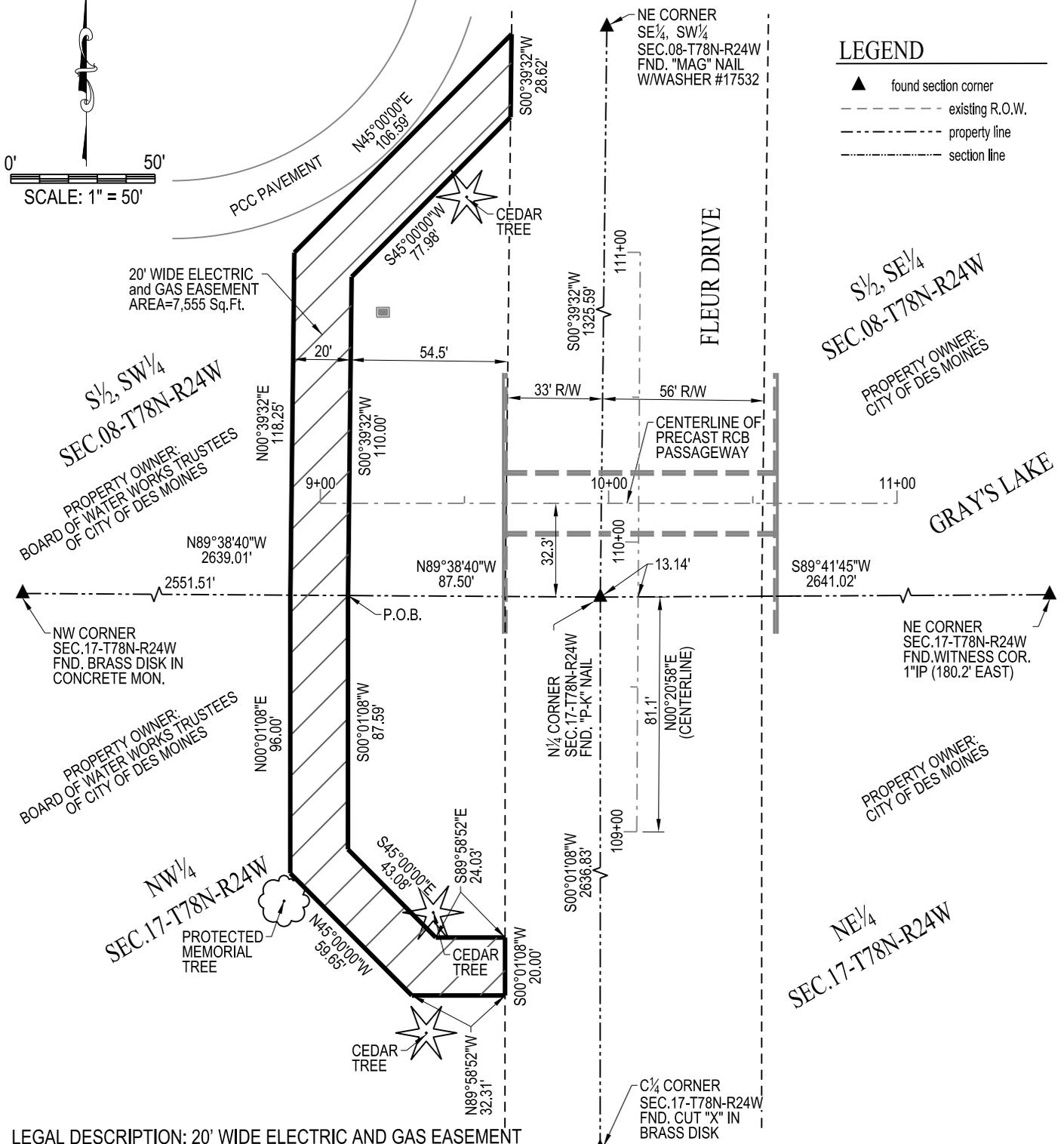
EXHIBIT 'A'

20' WIDE ELECTRIC and GAS EASEMENT



LEGEND

- ▲ found section corner
- - - - - existing R.O.W.
- — — — — property line
- — — — — section line



LEGAL DESCRIPTION: 20' WIDE ELECTRIC AND GAS EASEMENT

A part of the South Half of the Southwest Quarter of Section 08, Township 78 North, Range 24 West of the 5th P.M. and a part of the Northwest Quarter of Section 17, Township 78 North, Range 24 West of the 5th P.M., City of Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the North Quarter Corner of Section 17, Township 78 North, Range 24 West of the 5th P.M., City of Des Moines, Polk County, Iowa; thence North 89°38'40" West along the North Line of the Northwest Quarter of said Section 17, a distance of 87.50 feet to the Point of Beginning; thence South 00°01'08" West, a distance of 87.59 feet; thence South 45°00'00" East, a distance of 106.59 feet to a point on said West Right-of-Way Line of Fleur Drive; thence South 00°01'08" West along said West Right-of-Way Line of Fleur Drive, a distance of 28.62 feet; thence South 45°00'00" West, a distance of 77.98 feet; thence South 00°39'32" West, a distance of 110.00 feet to the Point of Beginning, containing 7,555 Square Feet.

| | | | | | |
|----------------|--------------------------|--------|------------|------|-----------|
| PROJECT NUMBER | WR 2612550 WR 2612551 | COUNTY | DATE DRAWN | YEAR | SHEET NO. |
| | | POLK | 02-07-2019 | 2019 | 1 |